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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,056	03/25/1999	DARRYL P. BLACK	10360/014001	1593

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EXAMINER

FLEURANTIN, JEAN B

ART UNIT	PAPER NUMBER
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2172

15

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/276,056

Applicant(s)

BLACK ET AL.

Examiner

Jean B Fleurantin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1-23 are remained pending for examination.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The arguments discussed on 11/08/2002 with respect to claims 1-23 have been fully considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 U.S.C. § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iddon et al. (U.S. Pat. No. 5,634,009) ("Iddon").

As per claims 1, 2 and 18, Iddon teaches a method of transmitting accounting records in an accounting system that produces information pertaining network traffic flow (thus, every time LAN process 64 receives a packet it calls network data engine 25 and passes the corresponding packet with associated status to the network data engine 25, probe 13 operates in a promiscuous mode listening to all traffic passing the probe "probe is equivalent to traffic flow"; however, it also receives and transmits packets in similar fashion to other network nodes if a packet is

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addressed to the probe, i.e., the target address of the packet corresponds to the probe address LAN process 64 passes the packet to network process 65 assuming that there are no errors network process 65 then either passes the packet up through the various network protocol layers or rejects the packet, for example if the packet is SNMP related the packet will be passed to SNMP process 66; which is readable as transmitting accounting records in an accounting system that produces information pertaining network traffic flow) (see cols. 8 and 9, lines 62-66 and 2-12) as claimed, comprises collecting data from a network device by a data collector associated with the network device and producing accounting records from the data (thus, each of these dedicated nodes is constantly gathering information about its corresponding network segment; which is readable as collecting data from a network device by a data collector associated with the network device and producing accounting records from the data) (see col. 2, lines 24-31);

storing in the data collector the accounting records (thus, the management information base module contains routines and data structures required to represent the corresponding table for the group, such as the extract and update routines are stored in the data collection module; which is readable as storing in the data collector the accounting records) (see col. 6, lines 13-18);

transmitting the accounting records to the flow aggregation process (thus, receives and transmits packets in similar fashion to other network nodes if a packet is addressed to the probe, i.e., the target address of the packet corresponds to the probe address LAN process 64 passes the packet to network process 65 assuming that there are no errors network process 65 then either passes the packet up through the various network protocol layers or rejects the packet; which is

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readable as transmitting the accounting records to the flow aggregation process) (see col. 9, lines 3-10). But, Iddon does not explicitly indicate first and second flow aggregation processes; and awaiting an acknowledgment signal from the flow aggregation process that the flow aggregation process received the accounting records before discarding the accounting records sent to the flow aggregation process. However, Iddon implicitly indicates typically the dedicated node needs a network performance an order magnitude higher than a 'normal' node, this is so because the dedicated nodes must be able to process aggregate network traffic whereas a normal node typically needs to handle bandwidths associated with typical network communications, if a normal node gets congested it can typically rely upon standard retry algorithms (see col. 2, lines 45-51). Further, in column 14, lines 9 through 15, Iddon teaches the data collection system, wherein the plurality of tables are sorted in at least first and second orders and wherein at least one of the plurality of groups of data in the first order is retrieved in response to a first command, and at least one of the plurality of groups of data in the second order is retrieved in response to a second command. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Iddon with first and second flow aggregation processes; and awaiting an acknowledgment signal from the flow aggregation process that the flow aggregation process received the accounting records before discarding the accounting records sent to the flow aggregation process. This modification would allow the teachings of Iddon to improve the accuracy and the reliability of the fault tolerance for network accounting architecture, and provide more functionality but have stringent performance

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requirements, as they require the node to handle all network traffic passing the node (see col. 1, lines 61-63).

As per claims 3 and 12, in addition to the discussion in claim 1, Iddon further teaches wherein if the data collector determines that the flow aggregation process is not operating (thus, if the dedicated node gets congested, any missed packet would go unprocessed because when the dedicated node is operating passively and promiscuously it should not request a retry; which is readable as the flow aggregation process is not operating)(see col. 2, lines 54-57). Further, in column 8, lines 8 through 10, Iddon teaches if the packet had error status it is likely that the application would prefer to not process that packet.

As per claim 4, the limitations of claim 4 are rejected in the analysis of claims 1 and 3, and this claims is rejected on that basis.

As per claims 5, 14 and 20, Iddon teaches a method as claimed wherein the data collector produces network accounting records (NARs) from collector data (thus, a sufficient number of network nodes connected throughout a computer network adapter to collect network data, which is readable as wherein the data collector produces network accounting records (NARs) from collector data) (see col. 3, lines 64-66).

As per claims 6, 15 and 21, Iddon teaches a method as claimed further comprises: removing from a local store of the data collector the locally stored copies of the transferred NARs (thus, probe 13 analyzes each packet, i.e., the digital form residing in memory 15 to determine whether the packet is intended for itself, for example another node may request certain

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information from probe 13, if a packet is targeted to probe 13, probe 13 will respond accordingly, i.e., like a normal node, if the packet is not intended for probe 13, i.e., the target address is not that of probe 13, probe 13 analyzes the packet in order to update certain tables within memory 15, for example RMON MIB, a MIB for SNMP, outlines what data should be accessible and how, as such if the probe 13 is used in an SNMP RMON MIB environment, RMON MIB will determine a minimum set of tables, which probe 13 must keep and manage; which is readable as removing from a local store of the data collector the locally stored copies of the transferred NARs (see col. 5, lines 28-56).

As per claims 7, 16 and 22, Iddon teaches a method as claimed wherein store and forward capabilities of the flow data collector provide fault tolerance at this accounting process level to ensure reliable data transfer (thus, network management typically entails determining which sections of a computer network are over- or under-utilized, in addition it includes detecting and locating network faults so that repairs and/or re-routing of the network can be made; which is readable as wherein store and forward capabilities of the flow data collector provide fault tolerance at this accounting process level to ensure reliable data transfer) (see col. 1, lines 24-28).

As per claims 8, 17 and 23, the limitations of claims 8, 17 and 23 are rejected in the analysis of claims 1 and 5, and these claims are rejected on that basis.

As per claims 9, 11 and 13 the limitations of claim 9, 11 and 13 are rejected in the analysis of claim 1, and these claims are rejected on that basis.

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As per claim 10 the limitations of claim 10 are rejected in the analysis of claim 1, and this claim is rejected on that basis.

As per claim 19, in addition to the discussion in claim 1, Iddon further teaches determine that one of the flow aggregation processes is not operating (thus, if the dedicated node gets congested, any missed packet would go unprocessed because when the dedicated node is operating passively and promiscuously it should not request a retry; which is readable as flow aggregation processes is not operating)(see col. 2, lines 54-57). Further, in column 8, lines 8 through 10, Iddon teaches if the packet had error status it is likely that the application would prefer to not process that packet.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hawkinson US Patent Numbers 6,278,995 and 6,295,532 relate to method for classifying information received by communications devices.

#### ***Conclusion***

5. Any inquiry concerning this communication from examiner should be directed to Jean Bolte Fleurantin at (703) 308-6718. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 6:00 P.M.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Mrs. KIM VU can be reached at (703) 305-8449. The FAX phone numbers for the Group 2100 Customer Service Center are: ***After Final (703) 746-7238, Official (703) 746-7239,***



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and *Non-Official (703) 746-7240*. NOTE: Documents transmitted by facsimile will be entered as official documents on the file wrapper unless clearly marked "**DRAFT**".

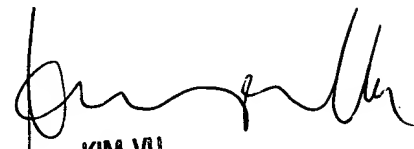
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2100 Customer Service Center receptionist whose telephone numbers are **(703) 306-5631, (703) 306-5632, (703) 306-5633**.



Jean Bolte Fleurantin

December 2, 2002

JBF/



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